

MINUTES
UTAH
PHYSICIANS LICENSING BOARD
MEETING

May 9, 2007

Room 474 – 4th Floor – 8:30 A.M.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 8:40 a.m.

ADJOURNED: 12:55 p.m.

Bureau Manager:
Board Secretary:
Division Director:

Diana Baker
Shirlene Kimball
F. David Stanley

Conducting:

George Pingree, MD chair

Board Members Present:

Richard Sperry, MD
Sharon Weinstein, MD
George Pingree, MD
Michael Giovannello, MD
Stephen Lamb, MD
Marc Babitz, MD
John Bennion, Ph.D., public member
Lori Buhler, public member

Members Excused:

James Fowler, MD
Mason Stout, MD
Curtis Canning, MD

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Minutes:

The April 11, 2007 minutes were approved with corrections. All Board members in favor.

NEW BUSINESS:

Agenda Review by Diana Baker:

Ms. Baker gave a brief overview of the probationers meeting with the Board.

Review final draft of the “Prescriber Alert” informational letter:

Dr. Weinstein submitted the final draft of the “Prescriber Alert” informational letter that was adopted by the Board in January. Ms. Baker indicated she will provide a copy to all Boards with prescriptive

practice. Dr. Weinstein indicated she would be available by telephone if any of the other Boards have questions regarding the letter.

Divided into groups at 9:05 a.m.

PROBATION INTERVIEWS:

Group 1: Diana Baker, Minute taker

Members present: Dr. Sperry, Dr. Weinstein, Dr. Babitz and Ms. Buhler.

Terrell Sellers, MD
Interview:

Dr. Sellers stated that he is doing well. He reported that he has misplaced his 12 step attendance cards because he has had to move again, but he will send them in as soon as they are located. He was informed that A&D Psychology has not sent in his aftercare report and he stated he will have that done. He was questioned as to his involvement as the facilitator to the aftercare meeting at A&D and that he needs to be a licensed therapist to hold this position. Also it is a conflict of interest for him to be the facilitator and a patient of the facility. He stated that he runs the meetings when he is there, but Tammy Dusoe is in all of the meetings as well. Dr. Sellers was instructed to be certain that he is not stepping out of his scope of practice in these meetings and that Ms. Dusoe is truly in charge of the meetings.

Dr. Sellers was also asked about a positive urine screen for Darvocet. He openly admitted that he found 4 tablets on the counter at his in-laws' house and took them. When asked to explain, he stated that it was a stupid thing to do and he knows he is an addict. He spoke openly about this to his sponsor and his wife. He has been attending more meetings and has increased the amount of time he speaks with his sponsors. He has asked that his in-laws remove such temptations, but realizes he cannot fix the environment, so he must work harder on fixing himself. Dr. Sellers is **not in compliance** with his Order. The Board has asked to see him again next month.

Steven Yearsley, MD
Telephone interview:

Dr. Yearsley was interviewed by telephone from Las Vegas. All of his reports have been submitted. He was asked about his plans to complete the prescribing course and he stated that there are classes on July 9-11

or September 10-12. He thinks he will attend the September meeting. He stated that he has not heard from Nevada regarding probation there, but has had other licenses suspended in other states because of the Utah Order. He is hoping to have completed probation by next year when he is scheduled to recertify with specialty board. Dr. Yearsley is **in compliance** with his Order.

Alan Heap, MD
Interview:

Dr. Heaps sent word this morning that he would not be able to attend the meeting. He has not submitted any of the required documentation, including none of the monthly-required triplicate copies of CS prescriptions he has written. Dr. Heaps is **not in compliance** with his Order.

Randal Ellsworth, MD
Interview:

Dr. Ellsworth discussed his recent trip to Guatemala for medical relief work with the Ministry of Health of Guatemala. He and others were able to vaccinate over 750,000 people for measles there. He had also gone back to Hawaii for one week to provide medical support for a child of friends. He did miss calling in for urine screens while in Guatemala, but was not required to test during that week. The board discussed his requirement of providing urine screens even when out of Utah. Most cities in the US have sites with CVI, including Hawaii where Dr. Ellsworth would be able to report if called for a urine screen. However, there is no availability while out of the country. The board was not willing to amend his Order at this time, so if Dr. Ellsworth is out of the country on one of these trips and his number is called, he will be considered out of compliance for missing any urine testing. Dr. Ellsworth did present attendance cards for PIR, but they did not show attendance to 4 meetings per month. He was instructed that he was to attend these meetings as ordered. Dr. Ellsworth is **not in compliance** with his Order.

Group II:
Secretary: Shirlene Kimball

Members present: Dr. Pingree, Dr. Giovanniello, Dr. Bennion and Dr. Lamb.

Stanton Bailey, MD
Interview:

Dr. Pingree conducted the interview. Dr. Bailey indicated he is doing very well and has been offered a position as medical director of The Institute for Change, a substance abuse treatment program located

in the Salt Lake area. He stated he would continue his practice in Nephi and Gunnison, but would be available on call or as scheduled for medical problems at the treatment program. He stated the program has a nurse practitioner on-site full time, however, for insurance billing purposes a physician is needed to act as the medical director. He stated he would not be involved in the day-to-day care of the clients. Board members indicated if he accepts this position, he would need to submit a new practice plan and would have to make sure he has a supervisor for this position. Dr. Lamb questioned whether or not Dr. Bailey has had experience working as a medical director of a substance abuse program, or does his experience with substance abuse qualify him for the position? Dr. Bailey stated he would not be supervising the drug rehabilitation portion of the program, but would review medical conditions. He indicated the program director is a licensed psychologist. Dr. Lamb questioned whether or not he would be prescribing medications because the psychologist can not prescribe. Dr. Bailey indicated he would refer to the patient's psychiatrist for those medications. Dr. Lamb expressed concern that once he sees a client for a medical problem and the program requests he refill a prescription outside that medical care, he may be pressured to prescribe as part of the position as medical director. Dr. Lamb stated Dr. Bailey is doing very well in his recovery and would be concerned with the additional duties and stress involved at this time. Dr. Giovanniello agrees and indicated that the Board reduced the number of meetings he had to attend so he could spend more time with this family. Dr. Bailey stated he does not want to jeopardize his license and indicated he will turn the offer down.

Judy Engen, MD
Interview:

Dr. Engen was excused and will be re-scheduled for next month.

Allen Naylor, MD
Interview:

Dr. Naylor indicated he works at the plasma center 6-7 hours per week and he has only done one physical exam. Dr. Naylor stated he has a new full time position as a corporate physician for a company that develops skin products. He indicated he has been hired as the medical director for product development and formulations and will be available to the

distributors if there are medical questions regarding the product. He indicated most of his interaction will be with the distributors over the Internet or by e-mail. He indicated he is currently working 60 hours per week. He stated he will maintain the hours at the plasma center in the evenings and on Saturday mornings. Board members questioned who will be his supervisor. Dr. Naylor indicated that the CEO of the company, Tom Mower, Jr. would be his supervisor but he is not a physician.

Dr. Naylor submitted a list of physical exams and activities he had been involved in from the time he quit his position in the ER until he began working at the plasma center. This was a 16-week period and Dr. Naylor requested the Board approve these activities so that his probation will not be extended 16 weeks. His list included scout physicals, student athlete physicals, participation in ophthalmic PCPs research/study, utilization of Diagnostic Toll for neuropathy, office cholesterol testing, and 22 bouts for the Utah Boxing Association including preflight and post fight physicals and volunteer physician for Bingham High School football games.

Board members indicated the information from Todd Fischer has not been received and he will be considered out of compliance until this report has been received.

Paul Benson, MD
Interview:

Dr. Benson was interviewed by Dr. Giovanniello. Dr. Benson reported his practice has slowed down because of the action on his licenses, but otherwise everything is going fine. He stated he is attending his meetings and his recovery is going well. He stated he has attended the professional boundary course in San Diego and it was extremely helpful. Dr. Brunson still needs to submit his report. Dr. Lamb expressed concern that the office manager is his supervisor and questioned whether or not there may be a conflict with having an employee fill out the report. Dr. Benson stated he does not feel there is a conflict.

Reconvened to Full Board at 10:50:

FULL BOARD BUSINESS:

Darrell Anderson, MD
Interview:

Dr. Anderson brought his controlled substance prescriptions for review. He continues to have a prescribing practice that is unusual and it appears his patients come from a wide variety of places. The concern expressed today is that he still does not have a supervisor and his charts have not been reviewed. Dr. Anderson stated he found a supervisor over the weekend, but they have not worked out the details of supervision. He stated the supervisor will be Dr. Mike Stevens, who is a psychiatrist at Davis Mental Health. Board members indicated Dr. Anderson is out of compliance and needs to get the supervision finalized, needs to submit the supervisor's CV and submit an updated practice plan. The practice plan needs to include how chart review will take place and the frequency; which charts will be reviewed and the how charts will be chosen for review. Dr. Stevens needs to agree to provide supervision and submit a signed agreement. Dr. Anderson will be scheduled to meet with the Board next month.

Dr. Anderson stated there has been no change in his own prescription medications. He stated he makes his own dose reduction by taking 5 beads out of each capsule each week. Dr. Weinstein questioned whether or not he has discussed reducing his dose with his physician? Dr. Anderson stated yes, he was instructed to do it this way.

Philip Washburn, MD
Scott Pederson, office manager:

Dr. Washburn and Scott Pederson, the office manager, met with the Board to discuss the prescribing practice for controlled substances and how they are tracked and logged. Mr. Pederson stated that if a phone request comes in, it is authorized by Dr. Washburn and the permission is given prior to calling the prescription in to a pharmacy. When he calls in a telephone prescription, he writes it in the log book and places the prescription in the file. Board members requested he document that these are telephone orders on the prescription copy. For clarification on the patient who does not appear to be filling the prescription orders, Mr. Pederson stated that Dr. Washburn has written the patient a letter and will fax the pharmacy the prescription and the patient will not receive a copy of the prescription. He stated that upon contacting the care giver of the patient, the care giver indicated that

the patient has been receiving medications which are placed in a machine that dispenses the medications. If the machine is full, the prescriptions are not filled and the prescriptions are destroyed. There is a note in the chart indicating this is what is happening. Board members indicated that there have been concerns regarding the monitoring of the practice and whether or not the medications are being properly managed. Dr. Washburn still needs to make sure he uses sequentially number prescription pads for both inpatient and outpatients. Mr. Pederson stated Dr. Washburn is now using sequentially number prescriptions and has a system in place to track the prescriptions.

Frederick Gonzales,
Interview:

Dr. Gonzales met with the Board to discuss his application and the concerns regarding the large number of malpractice suits within a seven-year period of time. Dr. Gonzales discussed these malpractice cases with the Board. He indicated most of the malpractice cases were from referrals or other physician's patients. He stated he has not been suspended or terminated from any hospital and has had no actions in any other states. Dr. Gonzales indicated if he receives his Utah license, he will work as a consultant to IHC hospital in St. George. Dr. Lamb made a Motion to issue the license. Dr. Babitz seconded the Motion. All Board members in favor.

Report from Committee interviews:

Stanton Bailey is doing well. He discussed with Board members an offer to act as medical director at a substance abuse treatment program. After discussing the offer with the Board, Dr. Bailey decided this position was not in his best interest and he will not accept the position.

Allen Naylor accepted a new position at SISEL International, a skin products company. He indicated he will not have direct patient contact and will have very limited contact with female employees. He requested that the 16-week period of time between leaving the ER last summer and accepting the position at the plasma center be counted toward his probationary period and he submitted a list of physical exams and other activities he completed during this time period. Board members expressed concern that

there was no supervision during this period of time. The number of exams is less than one physical exam a day and Board members indicated this would not be consider active practice. Dr. Weinstein stated another individual was approved to do insurance physicals and competency was never an issue. Dr. Giovanniello stated he would feel comfortable allowing him the time. Dr. Babitz stated the requests that were approved had requested prior approval. Dr. Babitz stated the documentation regarding the number of physical exams/activities were presented by Dr. Naylor and have not been verified by a supervisor. Dr. Lamb made a Motion that the 16-week period of time will not count toward the probationary period because there is no verified documentation, Dr. Naylor did not have supervision and he did not request approval prior to the activities. Dr. Babitz seconded the Motion. All Board members in favor. A second Motion was made to have Dr. Naylor submit a new practice plan regarding the medical director position. Mr. Mower will be approved as the supervisor as long as he agrees to supervise and submits the written reports. The practice plan can be approved by Ms. Baker if everything is appropriate. Dr. Sperry seconded the Motion. All Board members in favor.

Paul Benson: Board members are concerned with the supervisory role between Dr. Benson and his office manager, Ms. Jewkes. Dr. Giovanniello made a Motion to invite Ms. Jewkes to meet with the Board and to close the meeting during the interview. The Motion was seconded. All Board members in favor.

Terrell Sellers: Dr. Sellers admitted to taking several Darvocet that was prescribed to one of his wife's parents. He had a positive urine screen and has not submitted aftercare and PIR meeting attendance cards. Board members requested he met with the Board again in June.

Steven Yearsley: Dr. Yearsley would like to have his probation terminated early. Board members indicated he will need to complete the terms and conditions of his probation and has nine months to complete the coursework as required in the Order. Board members also indicated he will need to finish and complete at

least two years of probation before the Board will consider early termination.

Randal Ellsworth: Dr. Ellsworth is out of compliance for missing calls to CVI for drug screens. He only attended three PIR meetings in April and stated this is because he travels out of the country. Board members discussed with him the importance of complying with the terms and conditions of his Order. Ms. Baker will review the Order to see if anything else can be done to facilitate him when he is out of the country.

Dr. Washburn: Dr. Weinstein reported on her review of the charts Dr. Washburn presented today. She indicated they appear to be in order. There was one person reported on the controlled substance data base that is not Dr. Washburn's patient. There are two family members with the same last name and he sees them at the same time. Dr. Washburn was reminded to keep separate records for these patients. The issue with the patient who had prescriptions written but were not on the controlled substance data base has been clarified and the chart is in order. The office is faxing the prescription directly to the pharmacy, however, Dr. Washburn needs to follow up to make sure the patient is picking up the prescription and Dr. Washburn will need to follow through with the patient to determine whether or not he/she is taking the medication. There does not appear to be duplicate prescribing and everything appears to be in place. Dr. Weinstein stated she feels Dr. Washburn is in control of the prescriptions and it appears he is taking good care of his patients.

Applications Approved By The Division:

Eric Kubiak, MD
Andras Nemeth, MD
Allison Tonkin, MD
Richard Hendershot, MD
Brian Clothier, MD
Michael Smith, MD
Stephen Castorino, MD
Berkeley Hanson, MD
Montague Christopher, MD
Lynne Levitan, MD
Erica Bisson, MD

Benjamin Humpherys, MD
Russell Osguthorpe, MD
Adam Bowman, MD
Alexandra Wardzala, MD
Cory Ferguson, MD
Loida Viera, MD
Jeffrey Hodrick, MD
Aydd Jazrawi, MD
Robert Rogers, MD
Robert Gray, MD
Dave Sonal, MD
Rustin Ross, MD
Marc Hyde, MD
Laurence Wolf, MD
David Dansie, MD
Corey Ponder, MD
Ruth Hanford, MD
Alan Davidoff, MD
Thomas Pettinger, MD
Joshua Bradley, MD
Ryan Ollerton, MD
Brittany Hixon, MD
Rebecca Magno, MD
Mehdi Ghajarnia, MD
Paul Amstutz, MD
Stephanie Klein, MD
Raleigh Johnson, MD
Adam Stiles, MD
Jayant Agarwal, MD
William Hills, MD
Suzanne Aquino, MD
Mancong Zhang, MD
Michael Wheller, MD
Craig Hammes, MD
Barbara Biela, MD
Scott Tadler, MD
June-ku Kang, MD
Marc Morse, MD
Chinmaya Shelgikar, MD
Ty Erickson, MD
Candace Spann, MD
Gregory Wickern, MD
James Holm, MD
Jonathan Crist, MD

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

June 13, 2007
Date Approved

(ss) George Pingree, MD
Chair, Physician's Licensing Board

June 13, 2007
Date Approved

(ss) Diana Baker
Bureau Manager, Division of Occupational & Professional
Licensing